

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
ALABAMA, SOUTHERN DIVISION

KELLEY FOODS OF ALABAMA, INC.,)

Plaintiff,)

v.)

MYERS NISSI & COMPANY, INC.; a)
corporation d/b/a VERTICALSOFT,)

Defendant.)

CIVIL ACTION NO. 1:04 - cv-01246-
MHT-DRB

**NOTICE CONCERNING SETTLEMENT CONFERENCE
AND MEDIATION**

Pursuant to Section 3 of the Court's March 4, 2005, Uniform Scheduling Order, the Plaintiff hereby informs the Court that the parties' counsel conducted a face-to-face settlement conference on May 25, 2006, at which counsel engaged in good faith settlement negotiations. A settlement could not be reached at this time, although settlement discussions are continuing. Plaintiff believes that mediation will be helpful in resolving this case, but the undersigned understand that defendant believes that mediation will not be helpful.

Respectfully submitted,

/s/ Howard P. Walthall Jr.

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Attorneys for Plaintiffs
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CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all properly registered parties and to the extent they are not properly registered with the Court's ECF system, they have been served by directing same to their office addresses via first-class, United States mail, postage prepaid:

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/s/ Howard P. Walthall Jr. _____
Howard P. Walthall Jr.